

## OFFICIAL COPY

Fresno, California

December 21, 2004

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Mike Dages	Councilmember
	Jerry Duncan	Councilmember
	Henry Perea	Acting Council President
	Cynthia Sterling	Councilmember
	Brad Castillo	Council President

Dan Hobbs, City Manager  
 Andy Souza, Assistant City Manager  
 Hilda Cantu Montoy, City Attorney  
 Becky Klisch, City Clerk  
 Yolanda Salazar, Assistant City Clerk

Councilmember Dages gave the invocation, and Dan O'Brien led the Pledge of Allegiance.

#### PROCLAMATION OF DAN O'BRIEN DAY - COUNCILMEMBER DUNCAN

Read and presented.

----

#### APPROVE COUNCIL MINUTES OF DECEMBER 7 AND 14, 2004

On motion of Councilmember Duncan, seconded by Councilmember Sterling, duly carried, RESOLVED, the minutes of December 7 and 14, 2004, approved as submitted.

#### APPROVE JOINT POWERS FINANCING AUTHORITY MINUTES OF DECEMBER 14, 2004

On motion of Member Duncan, seconded by Member Boyajian, duly carried, RESOLVED, the Joint Powers Financing Authority minutes of December 14, 2004, approved as submitted.

----

#### **COUNCIL MEMBER REPORTS AND COMMENTS:**

#### MERRY CHRISTMAS TO ALL - COUNCILMEMBER DUNCAN

Holiday wishes extended.

#### NEGATIVE LETTER TO THE EDITOR RELATIVE TO DOWNTOWN FRESNO AND REVITALIZATION - COUNCILMEMBER CALHOUN

Councilmember Calhoun read a newspaper letter into the record from a Clovis resident making fun of downtown "being revitalized" every time a project is constructed and stated that was very sad, and spoke to all the positive things happening downtown and stated he looked positively on 2005. Councilmember Sterling concurred, spoke to the great things happening in her district and stated she looked forward to all the jobs the projects would bring and to lowering District 3's unemployment rate, and reiterated her invitation to all to visit Santa Claus at the Kearney Palms Shopping Center as this was a first for her district. Councilmember Boyajian spoke further to downtown after the following comments.

**COMMENDATION TO PRESIDENT CASTILLO - COUNCILMEMBER STERLING**

Councilmember Sterling stated the Granite Park project scheduled this date on President Castillo's last meeting was appropriate and the project was great, and thanked President Castillo on their working relationship these past two years, wished him well and stated he would be missed, and extended holiday wishes to all.

**FURTHER COMMENTS ON DOWNTOWN FRESNO - COUNCILMEMBER BOYAJIAN**

Councilmember Boyajian stated downtown has always been a challenge and people can say negative things but stated he was very proud of downtown, people need to be shown around downtown as it was thriving, and advised he has shown people around and they have been surprised with the area and all that downtown has to offer.

----

**APPROVE AGENDA:**

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the agenda hereby approved, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo  
 Noes : None  
 Absent : None

----

**ADOPT CONSENT CALENDAR:**

**(1-A) RESOLUTION NO. 2004-475 - APPROVING THE FINAL MAP OF TRACT NO. 5247, SOUTHEAST CORNER OF W. BULLARD AND N. GRANTLAND AVENUES, AND ACCEPTING THE DEDICATED PUBLIC USES THEREIN**

1. AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE THE SUBDIVISION AGREEMENT, THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT FOR LANDSCAPE MAINTENANCE, THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT FOR TEMPORARY OFF-SITE STREET FACILITIES, AN AGREEMENT WITH THE FRESNO IRRIGATION DISTRICT FOR COMMON USE EASEMENTS, AND AN AGREEMENT TO ADVANCE CONSIDERATION OF FINAL MAP FOR TRACT 5247
2. AUTHORIZE THE FIRE CHIEF TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT REQUIRING CERTAIN FIRE PROTECTION TO BE PROVIDED AND MAINTAINED
3. AUTHORIZE THE PLANNING AND DEVELOPMENT DIRECTOR TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT DEFERRING CERTAIN SEWER CONNECTION CHARGES, WATER CONNECTION CHARGES, URBAN GROWTH MANAGEMENT FEES AND DEVELOPMENT FEES TO THE TIME OF ISSUANCE OF CERTIFICATE OF OCCUPANCY AND CREATION OF LIEN, AND THE STATEMENT OF COVENANTS ACKNOWLEDGING RIGHT-TO-FARM LAW
4. AUTHORIZE THE PUBLIC UTILITIES DIRECTOR TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT PROVIDING SPECIAL SOLID WASTE DISPOSAL SERVICES FOR CERTAIN LOTS

Jeff Roberts, Granville Homes, stated his support for staff's recommendation and wished Council a merry Christmas, thanked President Castillo for his efforts over the last several years on council, and thanked city staff members for all their efforts and assistance.

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Item 1-A hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo  
 Noes : None  
 Absent : None

----

**(8:30 A.M.)** HEARING ON PLAN AMENDMENT NO. A-04-30, REZONE APPLICATION NO. R-04-97, AND PROPOSED FINAL ENVIRONMENTAL IMPACT REPORT NO. 10134, FILED BY GARY VIGEN ON BEHALF OF RUNNING HORSE, LLC, 461 ACRES GENERALLY BOUND BY W. WHITESBRIDGE, S. HUGHES, W. CHURCH AND S. MARKS AVENUES IN DISTRICT 3

**1. RESOLUTION NO. 2004-477** - ADOPTING AND CERTIFYING FINAL EIR NO. 10134

**2. RESOLUTION NO. 2004-478** - AMENDING THE 2025 FRESNO GENERAL PLAN AND THE EDISON COMMUNITY PLAN

**3. BILL NO. B-142 - ORDINANCE NO. 2004-140** - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM M - 1, R-A, C-6, AE-5/UGM AND AL-20 TO R-1/UGM/cz AND R-2/UGM/cz

President Castillo announced the time had arrived to consider the issue and opened the hearing.

Planning & Development Director Yovino gave a brief overview of the issue, thanked developer Tom O'Meara, the consultants, and city and agency staff on the project, and recommended approval. Project Manager Barnes gave a lengthy and extensive PowerPoint presentation on the project and related matters, all as contained in the staff report as submitted.

Bruce O'Neill, on behalf of the applicant and developer, stated they were supportive of staff's recommendation and looked forward to bringing the balance of the project back early next year. Developer Tom O'Meara thanked staff, the neighbors and the Veterans for their support and moving the project through quickly.

Speaking in support were: George Sinopoli, Chairman, California Veterans Board; Joseph Kitchen, Edison Merger Committee; Charlie Waters, Marine Corp League and President of the Central Valley Political Action Alliance; an unidentified Veteran and President of the Board of Directors for the Central California Veterans Home Support Foundation; and Noel Smith, area resident.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

Councilmember Sterling spoke to and in support of the project, advised of some of the things the developer had to do on his own **(2 - 0)** and to improvements/amenities he was going to build above what was required, stated this project was a catalyst for other projects such as the Hope VI project, and made a motion to approve staff's recommendation. The motion was seconded and acted upon after brief comments by Councilmembers Dages, Boyajian and President Castillo who commended the developer and all others involved in this project and for staying the course, and all those involved in the Veteran's home project.

On motion of Councilmember Sterling, seconded by Councilmember Duncan, duly carried, **RESOLVED**, the above entitled Resolution Nos. 2004-477 and 2004-478 hereby adopted, and the above entitled Bill No. B-142 adopted as Ordinance No. 2004-140, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes	:	None
Absent	:	None

----

**(2-A) RESOLUTION NO. 2004-479** - APPROVING AN ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE CITY OF FRESNO AND THE ZONE SPORTS CENTER, LLC AND THE GRANITE PARK KIDS' FOUNDATION RELATING TO A 42-ACRE RETAIL COMPLEX AND ADJACENT SPORTS FIELDS; APPROVING THE PRIMARY TERMS AND CONTINGENCY PURCHASE AGREEMENT BETWEEN THE CITY AND BANK OF THE WEST RELATING TO THE SPORTS FIELDS; AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE AGREEMENT AND DOCUMENTS AND TAKING OF ALL NECESSARY ACTIONS RELATING TO THE TRANSACTIONS - PRESIDENT CASTILLO

Milt Barbis, President of The Zone Sports Center and representative of The Granite Park Kids' Foundation, gave an extensive PowerPoint presentation on the project and related elements, and elaborated on the positive economic benefits the project would bring to the community.

Controller/Finance Director Quinto advised this incentive being presented for council consideration took much collaboration between the city attorney's office, the parks and recreation department, and the economic development department, and gave a lengthy review of the proposal and request for city assistance with a debt purchase guarantee relating to the bank loan for the sports field, all as contained in the staff report as submitted, and recommended approval stating the project was viable and would serve a positive public purpose through job creation and additional tax revenues.

Speaking in support of the issue were: Alfred Saldana, President of the Challenger League of Fresno and Vice President of TOPS Soccer; Wayne Fox, President of TOPS Soccer; and Erik Hyatt, President of North Fresno Youth Soccer League.

President Castillo commended Mr. Barbis for his vision and efforts, spoke in support of the issue, and made a motion to approve staff's recommendation, which motion was seconded by Councilmember Sterling who thanked staff for all their work and efforts and thoroughly scrutinizing the numbers.

Ms. Quinto, Assistant City Attorney Hale, Economic Development Director Burkhardt, Bob Herrick of Bank of the West, and City Manager Hobbs responded to numerous questions, comments and concerns of Councilmember Dages at length relative to the project, the guarantee, what exactly the loan would be used for **(3 - 0)**, loan security, why the developer could not qualify for a loan without a guarantee, concern with the guarantee request without knowing operating expenses, concern with precedent setting, how the city will be able to decline other requests, definition of "minor changes", number of jobs anticipated to be created, the 100,000 square feet of retail, what loan to value ratio the developer would have qualified for, and other related questions. Councilmember Dages clarified his concern was precedent-setting and had nothing to do with the project or the people associated with it.

Mr. Barbis, Ms. Quinto and parks staff responded to questions of Councilmember Boyajian relative to value of the second phase, if the same partners were involved, consequence for non-payment of the loan, foreclosure and if the property would be worth more than the \$5 million guarantee, cost for park land, and if the project would be a catalyst for growth. Councilmember Boyajian thanked Mr. Barbis and his partners and expressed his support stating the park was worth more than the guarantee and developing in the inner city was so important. Councilmember Sterling commended Ms. Quinto, Mr. Burkhardt and all involved staff for their work on the project and spoke to the job creation benefit and the win-win of partnering with the city of Fresno.

Councilmember Calhoun stated the project and the financing issue needed to be separated, advised he also had concerns as (1) he heard things changed from last Friday and (2) the project first came forth as a Mello-Roos proposal and it was now different, and stated he wanted to see economic development guidelines and a policy developed to show to others who will also be lining up as the current guidelines were too vague **(4 - 0)**.

Councilmember Duncan expressed his support for the proposal stating the area needed an economic shot in the arm; clarified Mello-Roos did not work out and this was an alternative option; upon his question Ms. Quinto explained what the advantages were to the city with this guarantee; and stated the interest rate was also an important factor and equity was already there. Acting President Perea thanked staff and commended Mr. Barbis and his partners for choosing to develop in the inner city stating they could have chosen to develop anywhere.

Councilmember Calhoun reiterated the issues of precedence and lack of policy were of concern to him and made a motion to table the matter to January 11, 2005, for staff to bring back an economic development policy and clarifying how this project fits into that and how it does not set a precedent, which motion died for lack of a second.

City Attorney Montoy noted a 5-year contingent liability was before council along with a term sheet with significant detail and added anything going beyond minor would come back to council; and clarified the economic development agreement addressed public use and the concerns expressed about detrimental precedence and explained. Councilmember Calhoun stated that was not what he heard and heard there was some "squeakiness" in the agreement and something would be brought back later with clarification, with Ms. Montoy responding and further clarifying economic development guidelines for future projects would be coming back to council in the future due to the precedence issue. Councilmember Calhoun stated approving this isolated situation before getting the guidelines was shortsighted and added he was unhappy with staff with "throwing a curve here" and presenting a new game plan when it was originally going to be a Mello-Roos project. Ms. Quinto stated the action council was being asked to take was allowable and was in accordance with council's adopted economic development policy; and clarified the issue was this particular type of incentive had not been offered before therefore she was recommending parameters be looked at here to further the policy that currently exists. Mr. Hobbs added this was a legitimate policy discussion and he respected concerns expressed but stated he objected to personalizing the issue and using terms such as "staff bad behavior" as that was inappropriate, and stated this matter had been very properly processed and had gone through the Mayor and Council Economic Development Task Force which was established for these types of issues and to deal with matters beforehand.

President Castillo noted the last time this project was before council the new juvenile hall facility was in the headlines of the Fresno Bee, stated this project was the answer to that as it was going to benefit children, create jobs and be an economic stabilizer for the area, and spoke briefly to the inaugural season last year of the TOPS soccer league and how proud the children were as they entered the field in Olympic fashion.

144-218

12/21/04

On motion of President Castillo, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Resolution No. 2004-479 hereby adopted, by the following vote:

Ayes : Boyajian Calhoun, Duncan, Perea, Sterling, Castillo  
Noes : Dages  
Absent : None

President Castillo stated this was a great day for the children of the city of Fresno. Mr. Barbis added this had been a long haul for their investors and thanked Council and President Castillo for sticking with them.

----

RECESS - 11:16 A.M. - 11:25 A.M.

(9:05 A.M.) CLOSED SESSION:

(A) CONFERENCE WITH REAL PROPERTY NEGOTIATORS PURSUANT TO GOVERNMENT CODE SECTION 54956.8  
PROPERTY: PARCELS AT 800 AND 880 "M" STREET  
NEGOTIATING PARTIES: ANDREW SOUZA AND DANIEL HOBBS; OPHELIA FAMILY TRUST  
UNDER NEGOTIATION: NEGOTIATION OF PRICE FOR ACQUISITION AND LEASE OF PROPERTY

The City Council met in closed session in Room 2125 at the hour of 11:25 a.m. to consider the above issue and adjourned thereafter.

----

ADJOURNMENT

There being no further business to bring before the Council, the hour of 12:10 p.m. having arrived and hearing no objections, President Castillo declared the meeting adjourned.

Approved on the \_\_\_\_4th\_\_\_\_day of January, 2005.

\_\_\_\_\_/s/\_\_\_\_\_  
ATTEST:\_\_\_\_\_/s/\_\_\_\_\_

\_\_\_\_\_  
Brad Castillo, Council President

\_\_\_\_\_  
Yolanda Salazar, Assistant City Clerk

144-219

12/21/04